IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1283 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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GHB

Versus

RAMGULAM RAMKEVAL

Appearance:

1. Special Civil Application No. 1283 of 2001

MR HS MUNSHAW for Petitioner No. 1

MR PRABHAKAR UPADYAY for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 17/06/2002

ORAL JUDGEMENT

#. Rule. Mr.Upadhyay waives service of rule for the respondent.

#. By the impugned award dated 7.4.2000 Presiding

Officer of the Labour Court, Ahmedabad has allowed the reference of the workman and has passed the order of reinstatement with backwages. The backwages are to be given from January 1996 till the actual reinstatement of the workman. The said award is under challenge at the instance of the Gujarat Housing Board.

#. Mr.Munshaw, however, submitted that the workman was appointed only for a particular work of maintenance which was to be performed at Meghaninagar ESI Hospital and Housing Colony and since the ESI Hospital is handed over to the State Government, Housing Board is not required to carry out the aforesaid work. He further submitted that, even the Housing Colony is handed over to its residents on hire purchase basis, and therefore, no maintenance work is in existence. He also submitted that, along with the petitioner, other 40 employees were also sent home.

#. I have considered the argument of Mr.Munshaw and I have also gone through the award. In my view, the Labour Court has given very sound reasoning in paragraph 11 of the award. It has been found by the Labour Court that the Housing Board has not followed the procedure of section 25-F and section 25-N of the Industrial Disputes Act. It is also required to be noted that, initially also, the aforesaid workman was removed from service and he approached this Court, challenging the said termination of service and this Court ordered reinstatement with 50% back wages. Thereafter, within a short period, again, his services were put to an end. The said aspect has been considered by the Labour Court in paragraph 11 of the award. In my view, the reasoning of the Labour Court is based on appreciation of evidence and it cannot be said that the Labour Court has committed any error of law or of jurisdiction. In my view, no interference of this Court is required. I, therefore, do not find any substance in this petition, and, therefore, the same is rejected.

#. At this stage, Mr.Upadhyay, for the respondent workman has fairly submitted that since the concerned workman is out of job since long and since he is practically starving, he is ready to get employment even by forgoing 50% of the back wages awarded by the Labour Court. He has, therefore, stated that the respondent workman is willing to be reinstated with 50% backwages instead of 100% back wages awarded by the Labour Court.

#. Under the circumstances, the order of the Labour Court is modified to the following extent :-

The petitioner is directed to reinstate the

respondent workman as per the award of the Labour Court. The concerned workman will be entitled to 50% backwages, which is to be paid from January, 1996 till the award of the Labour Court. However, from the date of the award of the Labour Court, he will be entitled to his regular salary. The petitioner is directed to comply with this order within a period of one month from today.

The petition is accordingly allowed to the aforesaid extent. Rule is made absolute to the aforesaid extent with no order as to costs.

(P.B.Majmudar,J)

(pathan)